

James D. Gardner (8798)  
Stewart O. Peay (9953)  
M. Lane Molen (11724)  
Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101-1004  
Telephone: (801) 257-1900  
Facsimile: (801) 257-1800  
[jgardner@swlaw.com](mailto:jgardner@swlaw.com)  
[speay@swlaw.com](mailto:speay@swlaw.com)  
[lmolen@swlaw.com](mailto:lmolen@swlaw.com)

*Attorneys for Defendants Wells Fargo  
Bank, N.A., LaSalle Bank N.A., Bank of America,  
N.A., and Norwest Mortgage, Inc.*

UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

**BRYAN TOONE and JoLYNNE TOONE,**

Plaintiff,

v.

**WELLS FARGO BANK, N.A.;  
PREMIER MORTGAGE CORP. OF  
AMERICA; ACCUBANK MORTGAGE  
CORPORATION DBA  
ACCUMORTGAGE CORPORATION;  
NORWEST MORTGAGE, INC.;  
LaSALLE BANK N.A., as Trustee;  
BANK OF AMERICA, NA; eTITLE  
INSURANCE AGENCY; LUNDBERG &  
ASSOCIATES; KENT W. PLOTT; MARK  
S. MIDDLEMAS; DOES 1-50;**

Defendants.

**MOTION TO DISMISS**

Case No. 2:11-cv-00170

Honorable Ted Stewart

Wells Fargo Bank, N.A., LaSalle Bank, N.A., Bank of American, N.A. and Norwest Mortgage, Inc. (collectively "Wells Fargo Defendants"), through counsel, respectfully submit

this *Motion to Dismiss* the Complaint of Plaintiffs Bryan Toone and JoLynne Toone (“Plaintiffs”). Under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Complaint should be dismissed with prejudice for failure to state a claim upon which relief can be granted.

DATED this 22<sup>nd</sup> day of February, 2011.

Snell & Wilmer L.L.P.

/s/ James D. Gardner

James D. Gardner

Stewart O. Peay

M. Lane Molen

*Attorneys for Defendants Wells Fargo Bank, N.A., LaSalle Bank N.A., Bank of America, N.A., and Norwest Mortgage, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of February, 2011, a true and correct copy of the foregoing to be served via the CM/ECF system, which provided service on the following:

Brian W. Steffensen  
Steffensen Law Office  
448 East 400 South, Suite 100  
Salt Lake City, Utah 84111  
*Counsel for Plaintiffs*

Richard Gunnerson  
3269 South Main Street #100  
Salt Lake City, UT 84115  
*Counsel for eTitle Insurance Agency,  
Lundberg & Associates, Kent W. Plott, and  
Mark S. Middlemas*

/s/ James D. Gardner